

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review of a Decision of the)	
Universal Services Administration)	
Company by)	
)	
Integrity Communications, Ltd.)	
Corpus Christi, Texas)	CC Docket No. 02-6
)	
Schools and Libraries Universal Service)	
Support Mechanism)	
)	
Wireline Competition Bureau)	

**INITIAL COMMENTS OF INTEGRITY COMMUNICATIONS, LTD. IN RESPONSE
TO REQUEST FOR PUBLIC COMMENT RELEASED OCTOBER 21, 2009**

NOW COMES Integrity Communications, Ltd. and submits its initial comments in response to the Commission's request for public comments released on October 21, 2009.¹ Integrity respectfully submits that the Commission must reconsider its decisions in the Order for a number of salient reasons, which it outlines² as follows:

**I. DENIAL OF DUE PROCESS REGARDING INVOICE/APPLICATION
PROCESSING**

This Commission and the Administrator continue to deny Integrity Communications, Ltd. ("Integrity") basic principles of due process of law because there is no requirement in the Order for USAC to act in any reasonable time period.³

¹ FCC Public Notice DA 09-2249, released October 21, 2009 regarding Petition For Reconsideration of Request for Review of a Decision of the Universal Service Administrator by Integrity Communications, Ltd. Schools and Libraries Support Mechanism, Order, CC Docket No. 02-6 (August 28, 2009) "Order".

² See Exhibit "A" attached hereto "Affidavit of Bill Sugarek" in Support of Initial Comments of Integrity Communications, Ltd. in Response to Request for Public Comment.

³ Integrity notes that there was no timely filed opposition to its Petition for Reconsideration. 47 C.F.R. § 1.106(g).

The Commission has failed to accord Integrity such due process by failing to include in its Order any time deadline for USAC to “resume processing of Integrity’s funding requests.” Order at p. 9. Integrity submitted to USAC its supplemental compliance plan procedures on September 2, 2009 and submitted a requested clarification on September 11, 2009. Integrity received USAC’s approval of its billing procedures on September 15, 2009. However, USAC has yet to act on any of the long-pending invoices for services rendered. Moreover, Integrity has seen no evidence that USAC has resumed processing of Integrity’s funding requests.

Indeed, on November 9, 2009, USAC’s counsel advised counsel for Integrity that USAC now intended to review the original funding decisions on *all of* the outstanding Integrity invoices to determine if the initial funding decision was appropriate. No explanation of the basis for this sweeping *ex post facto* reevaluation for invoices for all schools was provided. As regards the outstanding invoices, USAC’s counsel also remarked that the Commission did not order USAC to pay them.

First, payment of the invoices for work certified as complete has been delayed over two years. It appears neither USAC nor the Commission have any concerns about violation of the Commission’s 90-day rule that “failure to pay more than 90 days after completion of service . . . presumptively violates our rule . . .” that payment must be made. Schools and Libraries Fifth Report and Order, 19 FCC Rcd at 15816 para. 24 (“Fifth Report and Order”).

Second, allowing USAC unlimited time to resume processing Integrity’s funding requests denies Integrity due process of law. Integrity has been informed by school districts with pending applications for Integrity to perform projects that, even after USAC informed Integrity that its compliance plan was in conformity and USAC would commence processing pending FRN’s, USAC had advised the school districts that the projects were stalled, because Integrity was not in compliance.

The failure of an agency to act in a timely fashion is a deprivation of due process. *Coit Independence Joint Venture v. Federal Savings and Loan Ins. Corporation*, 489 U.S. 561 (1989). The Commission should require USAC to act and to act promptly on Integrity's funding requests. To do otherwise gives USAC "virtually unlimited discretion to bury large claims like Coit's in the administrative process." *Id* at 585.

Further, USAC's now planned revisiting of initial funding decisions on which valid invoices for services rendered are based raises potential constitutional problems. It is unconstitutional for the United States of America to take property from a citizen without compensation. The outstanding invoices are for work and materials already approved for support by USAC and delivered to the schools which applied for the Schools and Libraries Universal Service support and so certified by them. Even if USAC determined, four or five years after committing to funding those projects, to reverse the funding commitment after the certified completion of the invoiced-work, such a reversal would constitute an unconstitutional taking without compensation.

Thirdly, the failure to timely resume processing of Integrity's funding requests deprives Integrity of due process of law by the effective debarment of Integrity from the Schools and Libraries Universal Support program without any compliance with the Commission's rules for debarring a service provider.⁴

"Causes for suspension or debarment are conviction of or a civil judgment for attempt of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, make false statements, receiving stolen property, making false claims, obstruction of justice, or

⁴ 47 C.F.R. § 54.8

other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism . . .”⁵

Without any evidence of a civil judgment or criminal conviction, Integrity has been effectively debarred. Without a time limit on its review, USAC will continue to debar Integrity and deprive it of due process.

In its Order, the Commission violated Integrity’s due process by alluding to hearsay reports of a federal investigation of Donna Independent School District. Apparently, if such an investigation existed, it is concluded, because USAC declared Integrity to be in compliance. However, more than two years after the hearsay report of the investigation, no subpoenas were issued, no documents requested, and Integrity was never advised that it was the subject of an investigation, which is required by the Department of Justice investigatory procedures manual. The hearsay statement of the former Donna ISD superintendent is not, and cannot be, justification for further delay in paying invoices for services rendered or processing Integrity’s funding requests. The Commission must establish a deadline for USAC to complete its action on Integrity’s invoices and processing of Integrity’s funding requests.

The Commission also alluded to USAC’s awareness of a Texas Education Agency report regarding Donna ISD. USAC should also have been aware that the TEA subsequently stated it was in error and should not have mentioned Integrity in its report. USAC had no further justification to fail to resume processing Integrity’s funding requests. Even after Integrity complied with the Commission’s suggestion to supplement its compliance plan and USAC’s affirmative determination of the compliance of that plan, USAC has failed to commence

⁵ 47 C.F.R. § 54.8(c)

meaningful review of Integrity's funding requests. USAC has also failed to pay valid invoices or provide Integrity with any time frame in which it will act on those invoices.

II. AUDIT PROCEDURE VIOLATED DUE PROCESS

The Commission condoned the violation of Integrity's right to due process by approving the defacto debarment of Integrity without providing Integrity any prior opportunity to respond to the audit of San Benito ISD conducted by KPMG, which erroneously concluded that San Benito ISD had violated a Commission rule when it failed to timely pay its non-discounted share of the E-Rate supported contract. Even the Commission recognized in its Fifth Report and Order at paragraph 24 that there were not definite rules as to when a school district was required to pay, and recognized in its Order released August 28, 2009 that payment by San Benito ISD rebutted the presumption that if payment of the school's non-discounted share was not made in 90 days, the school intended to not pay. The Commission recognized that the fact that payment by San Benito ISD effectively rebutted the presumption that payment would not be made. However, the Commission failed to recognize that USAC's actions deprived Integrity of due process. Minimal due process would require an opportunity to reply to non-compliant auditee letter before suspending a service provider and notifying its current customers that USAC alleged it was in violation of the rules.⁶ Because San Benito ISD had paid 100% of what it owed, it is difficult to see how notifying Integrity's customers of an alleged violation, without providing it an opportunity to first respond, advanced USAC's charge to prevent waste, fraud and abuse.

Moreover, the Commission continued the denial of due process to Integrity when it failed to set a deadline for USAC to pay pending invoices or commence review of Integrity's pending funding requests. While the Commission recognized that on a going forward basis, USAC

⁶ Indeed, USTA in its Petition For Clarification Or In The Alternative Partial Consideration supports this same conclusion regarding the demands of due process. See USTA Petition at pp. 2-3.

“should not hold funding for schools or service providers unless it has evidence and a reasonable basis to believe that the service provider or school is engaged in a violation of the Commission’s rules with respect to *that specific school district*.”⁷ At a minimum, the Commission should have ordered USAC to withdraw the freeze on Integrity within a few days, or to disclose evidence of a violation of the Commission’s rules which would justify a continuation of the effective debarment.

The Commission further violated Integrity’s due process rights by holding that USAC acted reasonably in notifying Integrity’s customers and suspending funding at all other schools without any evidence of a violation before Integrity filed a compliance plan. If due process requires USAC to change its procedure going forward, it was a violation of Integrity’s right to due process not to find that USAC’s actions were unjustified.

The Commission held (on what evidence it is not clear), that USAC “understood that the Wireline Competition Bureau had approved the format of its Non-Compliant Auditee Letter, and USAC had proposed to send this letter to all affected parties, including all E-Rate applicants, if a service provider failed to respond adequately regarding non-compliant audit findings” (emphasis added).⁸ How then was it consistent with USAC’s understanding to send the letter to E-Rate applicants associated with Integrity before Integrity was advised of the alleged non-compliant audit findings, much less after an opportunity to respond. If this procedure is prohibited in the

⁷ Order at p.10, paragraph 21.

⁸ Id.

future, how can it be deemed reasonable in Integrity's case?⁹ The only way to provide Integrity any semblance of due process is to apply the same standard to Integrity as to service providers and schools in the future and reverse the finding USAC's sending of the letter and suspension of funding were reasonable. Would not it have been reasonable for USAC to have contacted Integrity and requested an explanation of the San Benito ISD invoicing before imposing the draconian sanctions on Integrity? There was nothing reasonable about USAC's actions toward Integrity. The Commission should reverse this finding. As noted in Integrity's Petition, the Commission's conclusion is based on a totally false assumption – that Integrity was afforded an opportunity to respond *before* USAC froze everything. It was not.

The finding that USAC acted reasonably in sending the letter and suspending funding violates Integrity's right to due process in another way. According to the Commission's finding, USAC's understanding was that the non-compliant auditee letter could be sent to all affected parties including E-Rate applicants only *after the service provider failed to adequately respond*. By finding that USAC acted reasonably in freezing out Integrity, and notifying its E-Rate applicants before it had any opportunity to respond, the Commission denied due process of law by construing its processes in a manner inconsistent with USAC's own understanding and the understanding any ordinarily prudent person would have. It is a gross denial of due process to justify behavior which is clearly inconsistent with the intent and understanding of the non-compliant auditee notice and process. The Commission should reverse the finding that USAC

⁹ The Order directed USAC to file a modification to its administrative procedures within 60 days to correct this situation going forward. On October 23, 2009, USAC filed Administrative Procedures which, at page 53, reference the Order, but it is not clear that the terms of the Order are accurately reflected therein, particularly as it relates to the opportunity to respond before a freeze is imposed. In fact, USAC's proposed procedure has the same due process defect as presented in the Integrity situation – USAC proposed to notify “all applicants with pending funding requests for which USAC has evidence and a reasonable basis to believe that the service provider's lack of compliance is also occurring with regard to those applicants.” Isn't one of the functions of the audit process to give the auditee an opportunity to respond to determine if a violation has occurred before concluding that the auditee has committed a violation?”

acted reasonably, because its behavior did not comport with its own understanding of the non-compliant auditee process, which the Commission held was to notify others and suspend payment only after the auditee failed to respond adequately¹⁰

CONCLUSION

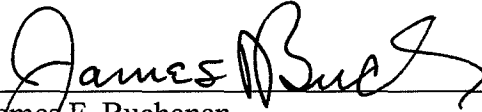
Since the publication of the request for comments on Integrity's Petition for Reconsideration, the undersigned has heard from numerous service providers with anecdotal evidence of arbitrary and capricious behavior by USAC, including funding suspension with a refusal by USAC to provide any evidence or justification for doing so. Separate and apart from rectifying the situation with respect to Integrity, it is time for the Commission to engage in rule-making to require USAC's decision-making more transparent, and timely.¹¹ The Commission should start by imposing time deadlines on USAC to "unfreeze" E-Rate applications associated with Integrity or reveal evidence of a violation of the Commission's rules which would justify a freeze, and put a strict time limit on USAC to complete review of Integrity's pending invoices and other funding requests and to reverse the finding that USAC acted reasonably in notifying E-Rate applicants associated with Integrity and freezing all funding before Integrity had an opportunity to respond to USAC's allegations regarding non-compliant audit findings.¹²

¹⁰ Order at p. 10 paragraph 21.

¹¹ The Commission has a long-pending rulemaking proceeding to address USAC management procedures. In addition, current members of the Commission have called for a thorough "operational, financial and ethical audit" of USAC. It is high time.

¹² As the Commission well knows it routinely imposes processing deadlines on USAC in remanding applications to USAC after review by the FCC. There is no sound justification for not doing so here.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James Buchanan", written over a horizontal line.

James F. Buchanan
State Bar No. 03287500
WELDER LESHIN LLP
800 North Shoreline Blvd.
Suite 300, North Tower
Corpus Christi, Texas 78401
(361) 561-8000 – Telephone
(361) 561-8001 – Telefax

**Attorneys for Integrity Communications,
Ltd.**

November 16, 2009

CERTIFICATE OF SERVICE

I certify that that on November 16, 2009, a copy of the foregoing "Initial Comments of Integrity Communications, Ltd. in Response to Request for Public Comment Released October 21, 2009" has been served via electronic mail or first class mail, postage pre-paid, to the following:

Sharon Gillett
Bureau Chief
Wireline Competition Bureau
Federal Communications Commission
Sharon.Gillett@fcc.gov

Randy Clarke
Legal Advisor to the Bureau Chief
Wireline Competition Bureau
Federal Communications Commission
Randy.Clarke@fcc.gov

Gina Spade
Assistant Division Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Gina.Space@fcc.gov

Jennifer McKee
Acting Division Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Jennifer.McKee@fcc.gov

Kristy Carroll
Deputy General Counsel
USAC
2000 L Street, N.W., Suite 200
Washington, D.C. 20036
kcarroll@usac.org

Mr. Brian Murphy
USAC
2000 L Street, N.W.
Washington, D.C. 20026
bmurphy@usac.org

Johathan Banks
David Cohen
607 14th Street, NW, Suite 400
Washington, D.C. 20005
DCohen@USTelcom.org

Best Copy and Printing, Inc.
445 12th Street, S.W.m, Room CY-B402
Washington, D.C. 20554

Anita Cheng
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Anita.Cheng@fcc.gov

Antoinette Stevens
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Antoinette.Stevens@fcc.gov

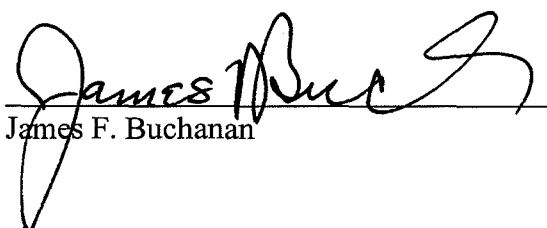

James F. Buchanan

EXHIBIT A

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review of a Decision of the)	
Universal Services Administration)	
Company by)	
)	
Integrity Communications, Ltd.)	
Corpus Christ, Texas)	CC Docket No. 02-6
)	
Schools and Libraries Universal Service)	
Support Mechanism)	
)	
Wireline Competition Bureau)	

**AFFIDAVIT OF BILL SUGAREK IN SUPPORT OF INITIAL COMMENTS OF
INTEGRITY COMMUNICATIONS, LTD. IN RESPONSE TO REQUEST FOR
PUBLIC COMMENT RELEASED OCTOBER 21, 2009**

I am correctly named above and am competent to make this affidavit. I am one of the principals in Integrity Communications, Ltd. and I make this affidavit of my own personal knowledge.

In funding year 2001-2002 (yr.5), Integrity Communications Ltd. (Integrity) signed a contract for the E-Rate program with San Benito ISD (SBISD) in San Benito, Texas. The contract stated that SBISD would not be paying progressive payments but would pay their portion in full at the completion of the project. SBISD took this step in order to comply with its understanding of Texas law regarding procurement by school districts. Integrity was informed that SBISD had set aside the funds necessary to pay their portion. Nothing in SBISD's and Integrity's contract prevented Integrity from submitting invoices to SBISD at the same time they invoiced USAC, therefore no contract violations occurred.

Before signing the contract, Integrity in a phone call with the Schools and Library's Division (SLD) of the Universal Services Administrative Company (USAC) informed SLD of this contingency and asked if it were still permissible for Integrity to do progressive invoicing with SLD even though SBISD was going to wait to pay at the completion of the project. SLD's response was, "We don't care when the school pays their portion, as long as they pay."

With this clarification the contract was signed and ultimately the application approved and funded by USAC. Unfortunately, I believe the discussion with USAC for this clarification was done

by telephone and no record of it exists to my knowledge. All work was completed satisfactorily, progressive invoices were submitted to USAC, and payments were made.

Invoices were submitted to SBISD at the same time. At the completion of the project all invoices were paid by SBISD in less than thirty (30) days. No "waste, fraud, and abuse" was planned, perpetrated, intended by any parties, nor committed.

Following is a response with factual and pertinent information which should be brought to light so that clarification and a just review of the Commission's ORDER of August 28, 2009 CC Docket No. 02-6 can be considered.

1. Integrity Communications was selected for a contract for San Benito ISD for 2002-2003 funding year (year 5) in January 2002. The contract stipulated that SBISD would pay 100 percent of their portion of services at the completion of the project.
2. Before signing the contract, Integrity called USAC to inform them of this stipulation and asked if it were still permissible to do progressive invoicing with USAC. USAC's response was "WE DON'T CARE WHEN THE SCHOOL PAYS THEIR PORTION AS LONG AS THEY PAY IT." This coincided with our E-Rate coordinators interpretation of the rules as understood from his attendance at yearly USAC training seminars.
3. With this approved progressive invoicing clarification from USAC, Integrity entered into a contract with SBISD, the Form 471 was submitted to USAC and ultimately funding was granted April 7, 2003.
4. Work began and Integrity started sending progressive invoices to USAC on May 4, 2004. Invoices were also sent to SBISD in an effort to keep continuity with all the invoices to proceed so as to prevent potential confusion when the time came for SBISD to pay their portion. At this time there was no FCC 5th Report and Order and all parties were in compliance according to USAC rules, policies and procedures.
5. In keeping with standard protocol, all of Integrity invoices have "Due Upon Receipt" on them for legal purposes even though payment is normally expected within thirty (30) days. Payment was not expected from SBISD until the end of the project as per the contract, and that was reiterated to SBISD at that time. When the project was completed SBISD would simply add up all the invoices due and pay their portion in full, which is what happened.
6. Over half of the entire project had been completed and over \$1.1 million dollars invoiced, reviewed, and paid by USAC using the above described procedures which had been agreed on, contractually binding, and USAC approved and compliant, by June 2004, two months before the FCC's 5th Report and Order was released.
7. By the end of 2004 over Three Hundred Thousand dollars (\$300,000.00) additional work had been satisfactorily completed and invoices submitted following previous procedures less than four months from release of the 5th Report and Order. As far as anyone knew, and according to USAC invoice reviewers, SBISD and Integrity were in compliance.

Integrity was, had been, and has always acted in good faith and has studiously tried to keep up with the ever changing, nebulous, confusing rules, policies, and procedures of this program. In fact, in paragraph 7, in the last four sentences of the FCC's ORDER, CC Docket No. 02-6 released August 28, 2009 USAC admits that on August 10, 2005 Integrity submitted five invoices to USAC. SBISD submitted "Service Certifications" stating they intended to pay their portion on November 15th and November 20th, 2005. This was CLEARLY more than ninety (90) days from time of invoicing.

Why did USAC approve and pay their invoices if SBISD was in non-compliance of the rules? By USAC approving these and all previous as well as any subsequent invoices USAC had no reason to accuse Integrity of a violation of the rules and neither Integrity nor SBISD had any knowledge or reason to believe any rules were being violated. USAC made just as big a mistake or bigger than Integrity by approving payment when improper Service Certifications had been submitted by SBISD.

Again, intent must be considered in and the fact that no actual "waste, fraud and abuse" had occurred by SBISD, Integrity, or USAC. The fact that all invoices had indeed been paid by SBISD nearly one year before the audit was completed should dictate precedence and prove that no "foul play" or "waste, fraud, and abuse" had occurred from any of the associated parties. SBISD never had any intent to not pay and this is proven by their payments thereby negating the "presumption" that the "rule" to pay was violated.

8. "Waste, Fraud, and Abuse" is referenced 18 times in the Commissions report regarding USAC's dealing with Integrity on this matter. This is extremely disturbing and potentially accusatorial and injurious against Integrity at the least. Please note; In spite of numerous FALSE code 9's reported on Integrity from unscrupulous competitors over the last nine years, and with unrelenting, extremely unfair, unwarranted, bias treatment and incessantly extreme scrutiny of all of Integrity's applications and invoices, there has NEVER been any "waste fraud or abuse" found against Integrity. There MUST be a clear differentiation involving intent to defraud, and acting in good faith and making honest mistakes while trying to be compliant in a program with constantly changing, confusing, nebulous rules and policies.

In the fifth sentence of paragraph 21 of the FCC ORDER CC Docket No. 02-6 released August 28, 2009, the Commission states; "It is important to strike a balance between fairness and preventing waste, fraud and abuse." Integrity has yet to have been dealt with ANY fairness from USAC, but rather has been unjustly barred from the E-Rate program for over two years through unremitting biased treatment as described herein, and having never been found guilty of any intentional "waste, fraud and abuse." Where's the "Fairness" in all this?

9. USAC had a third party independent auditing firm (KPMG) perform an audit on SBISD for the funding year 2002-2003 (year 5) which commenced on November 29, 2006. Integrity was never contacted by KPMG or USAC regarding this audit and no opportunity was ever afforded them to address or respond to any issues directly or indirectly involving Integrity.

Without the prior knowledge of Integrity, a letter from USAC went out to all of it's pending E-Rate clients stating, "Your entity...was not in compliance with FCC rules". It further stated that USAC was going to "heighten its scrutiny..." and in essence enacted a freeze on Integrity and that "USAC has a

fiduciary duty to protect the USF from waste, fraud and abuse". This letter was the first contact USAC had with Integrity regarding the audit.

Furthermore, the accusatory letter did not even identify which school district was in question thereby causing extreme confusion and concern by all of Integrity's existing clients and potential clients. Competitors creating a destructive shadow of doubt and loss of faith in Integrity quickly distributed USAC's letter to many of the school districts in Texas.

The letter was also posted on the Texas School Board Association web site via email, which is seen by all of the Texas school boards and superintendents. In a discussion with a former class mate who is a superintendent he said he saw where a South Texas vendor had committed USAC rule violations and that they had to be careful with these crooks trying to defraud the system.

Several other superintendents and board members told Integrity personnel that they would not even consider using Integrity because of "all the trouble they were in". Statements from board members have been but not limited to, "We received a letter from USAC telling us Integrity has committed violations and are in trouble and that we can't use Integrity anymore." Ultimately several millions of dollars worth of existing contracts have been cancelled because of this damning letter. Where's the "Fairness"?

10. In paragraph 13 of the FCC order CC Docket No. 02-6 the FCC states " ...USAC may not simply turn a blind eye – it is obligated to take action regarding the violation...to prevent waste, fraud, and abuse". Integrity argues there was no "Rule Violation". Please refer to the FCC's 5th Report and Order; paragraph 24. "Failure to Pay Non-Discounted Share" second sentence.

"While our RULES do not set forth a specific timeframe for determining when a beneficiary has failed to pay its non-discounted share, we conclude that a reasonable timeframe is ninety (90) days...Presumptively violates our rule that the beneficiary must pay its share" (paragraph 24, fifth sentence of the 5th Report and Order). If the FCC rules don't specify a time frame and since SBISD had indeed already paid their portion of the completed project, how could Integrity have broken a rule that doesn't exist? The continued resounding alleged crime here is "waste, fraud, and abuse"!

The project in question was completed and the final invoice submitted on November 20, 2006. On December 4, 2006 all invoices to SBISD were paid as contractually agreed on (and verbally agreed on by USAC in advance in 2001 prior to signing the contract). This clearly contradicts the notion that the applicant didn't intend to pay its non-discounted share. SBISD had paid 100 percent of what they owed nearly a year before the audit was completed!

This entire two (plus) year travesty is nothing more than a bias witch-hunt and futile effort in semantics. If USAC sincerely cared about "waste, fraud, and abuse" it couldn't just "simply turn a blind eye" when other "large corporations" have been under investigation and ultimately found guilty of committing "waste fraud and abuse." But this is exactly what has, and is being allowed to happen. Having invoices paid and FRN's granted when they were/are under investigation for wrong doing and found guilty of clearly, deliberately, and actually committing "waste, fraud, and abuse" and paying millions of dollars in fines.

The bias treatment by USAC given many small vendors such as Integrity, and the favoritism shown Large Corporations, is unconscionable and un-American. Furthermore it undermines the whole intent of the FCC and "fair competition" of the E-Rate program. Where's the "Fairness"?

11. Prior to the letter sent out October 24, 2007, some negative newspaper articles had been published regarding Donna ISD. In short, a disgruntled fired employee had made false allegations about Donna regarding nine unrelated issues. E-Rate was only one of the nine issues in question.

Ultimately the Texas Education Agency (TEA) did an investigation and issued a non- conclusive report. Integrity engaged former TEA Senior Counsel David Thompson to represent them and to help educate the TEA on how E-Rate works and on State Procurement law and to clear it's name.

A TEA informal hearing was conducted and Mr. Thompson explained Texas procurement law to TEA counsel and showed in the law book where no procurement violations in question had occurred. TEA counsel stated, "This is the first time I've ever seen that law" and conceded to Mr. Thompson.

Within a month TEA told Mr. Thompson they made a mistake and should never had mentioned Integrity in the report. The TEA cleared Integrity of having been involved in their investigation in writing. USAC obviously has never considered this fact. Integrity informed Donna ISD of being cleared and suggested they engage Mr. Thompson to assist in clearing them with TEA as well.

Donna's lawyers said they knew Mr. Thompson and said he was a well known and respected school attorney and former TEA Senior counsel. I was told they were going to contact Mr. Thompson for possible consultation or engagement.

To my knowledge there was contact with Mr. Thompson and Donna ISD to discuss his assistance and assuring them he could help clear their TEA matter up as well. To my knowledge they declined his help. This respondent is unaware of why Donna refused Mr. Thompson's assistance or of any further clearing action regarding Donna, Mr. Thompson, and the TEA.

USAC also never considered the fact that the perpetrator, who made the false accusations against Donna to the media and TEA, in a self-serving effort to fabricate a wrongful termination lawsuit, was ultimately proven a liar in court. He had lied and pulled this same tactic in the past. All procurement procedures were properly addressed and followed by Donna ISD involving Integrity on all funding years. The school board meeting tapes, which were never asked for by the TEA or USAC, substantiates this.

TEA admitted to Integrity's attorney that they weren't familiar enough with the Federal E-Rate program and weren't sure if Donna had violated any procurement laws so that's why they were referring it to legal authorities to let them figure it out. TEA's "Required Actions" and full recommendation to Donna ISD on this matter was "THE REPORT BE REVIEWED WITH THE BOARD OF TRUSTEES, AND THE DISTRICT TAKE APPROPRIATE STEPS TO COMPLY WITH THE FEDERAL AND STATE REGULATIONS DEALING WITH COMPETITIVE PROCUREMENT". (See letter to Donna ISD from TEA)

That was it! No declaration of illegal actions, no reprimands, no violated rules or laws cited, no fines or reversals of any decisions or actions from the board, no charges or indictments, no suspensions. The final report from TEA to Donna was full of discrepancies and errors, which Integrity's attorney brought up to the TEA's attention. No wrong doing by Donna ISD or Integrity was ever proven because there was none! According to Integrity counsel TEA considers the matter closed. Where's the "Fairness"?

12. The FCC mentions in it's report "overall suspension of disbursements and funding commitments to Integrity was appropriate in light of the Department of Justice and Commission investigation of Integrity that was known to USAC at the time". The only substantiation USAC could give three Congressional inquirers to the unjustified biased freeze of 100 percent of Integrity's invoices and FRN's was reference to the newspaper reports instigated by the previously mentioned terminated Donna ISD, CFO.

Furthermore, USAC and the FCC told multiple congressmen they could not act or provide any information on any of Integrity's applications while an investigation was on going. In August 2009 the perpetrator of these false allegations against Donna was declared incompetent and a liar in court and his case against Donna ISD was thrown out.

Since USAC declared Integrity "in compliance" in an email from USAC to Integrity dated September 15, 2009 and has stated they will resume processing of Integrity's applications, it must be assumed there no longer exists any investigations against Integrity (if in fact there ever were any). To date no contact from any Federal, State, or Local legal agencies regarding any of these matters has been made with Integrity. And no invoices have been paid nor any FRN's funded. It is apparent from conversations between Patton Boggs and USAC that USAC has no intention of acting on ANY of Integrity's outstanding issues in a timely manner, if ever at all. Where's the "Fairness"?

13. In the FCC's ORDER released August 28, 2009, the FCC states in paragraph 21 sentence two, "At the time that USAC took these actions, it understood that the Wireline Competition Bureau had approved the format of it's Non-Compliant Auditee Letter..." The Wireline Competition Bureau obviously had not approved the letter! The report further states "HOWEVER...on a going forward basis, USAC SHOULD NOT SEND an audit letter to or HOLD FUNDING for schools or service providers unless it has evidence...of a violation of COMMISSION RULES with respect to that specific school district".

USAC made a tremendously devastating, irreversible mistake adversely effecting thousands of South Texas needy children, dozens of school districts, and hundreds of thousands of taxpayers. Integrity's good name and positive reputation among the school system has been destroyed and dozens of good families have been adversely affected due to layoffs; all because USAC THOUGHT the letter had been approved by the FCC. The FCC has a responsibility to act "fairly" not only with USAC but with vendors and school districts alike. Integrity and SBISD THOUGHT they were in compliance. This "fairness" has been and continues to be one sided in favor of USAC and big business. What penalty has been assessed against USAC for the error committed admittedly by the FCC in paragraph 21? There is none. Only Integrity is penalized. Where's the fairness?

As previously stated by the FCC's 5th Report and Order, their "rules do not set forth a specific timeframe for determining when a beneficiary has failed to pay" and the fact that SBISD had already paid their portion a year before the audit report was even completed, it must be unequivocally concluded that indeed no FCC rule had been violated and no "waste, fraud, and abuse" had occurred. Where is the "balance between fairness and preventative waste, fraud, and abuse" come into play? Where is the "Fairness" toward Integrity?

14. Because of all this turmoil, Integrity has had over three quarter million dollars of invoices for satisfactorily completed E-Rate projects for six school districts unlawfully held up for over two and a half years. In addition, over \$50 million dollars of originally pending applications at the time of the freeze have been held up and interfered with by USAC's actions and no apparent legitimate attempt is being made by USAC to resume processing of any of these.

In the FCC's ORDER released August 28, 2009, in paragraph 24 the FCC ordered, "That USAC SHALL COMPLETE its review of Integrity...resume processing of Integrity's funding request consistent with this order".

It's been over two months since USAC was issued this order by the FCC. There still is no indication of any payments for the more than two year delinquent invoices rightfully due Integrity, or any funding for the, now reduced amount of, over \$40 million dollars of outstanding, pending applications.

15. Please note that no timelines or deadlines were given USAC by the FCC to review and expedite Integrity's outstanding invoices and pending FRN's of 2-4 years. This has in actuality enabled USAC to stall indefinitely. Further communication between Integrity's attorneys and USAC's attorneys, have yielded no positive, encouraging results and it is apparent that no immediate resolve is forthcoming.

In fact it has been communicated that USAC intends to review all of Integrity's previously approved FRNs and invoices to determine if possible reversals and payment denials are warranted. This counterproductive, vindictive action by USAC is unconscionable! The FCC must intervene in this matter and demand fairness and expediency in paying Integrity what is owed and due them. Furthermore, all outstanding FRNs must be reviewed and processed within an equitable time frame and without bias. If any allegations or accusation of "waste, fraud, and abuse" of the E-Rate program are suspected it certainly has to be within the ranks of USAC! Where's the "Fairness"?

16. For the record, two years ago when this USAC "Freeze" letter was sent to Integrity and all of their pending E-Rate applicants, it was eventually electronically distributed to thousands of school districts. Consequently Integrity engaged Cynthia Schultz, former USAC CEO and then attorney for Patton Boggs Law Firm of Washington D.C. to represent them in this defamatory, wrongful action committed by USAC. Integrity has followed legal counsel's advice and recommendations from day one on this matter. All correspondence and replies with USAC and the FCC were done through, and by legal counsel.

Legal argument and documentation stating proper law and authority, and exposing inconsistencies within the program and by USAC have been made available for review. USAC has clearly, wrongfully, and maliciously, committed tort and interfered with a Federal Government Program.

Integrity has continually acted honorably and followed sound, competent legal advice from multiple legal firms pertaining to this whole matter. Where's the "Fairness"?

17. Due to the continued, blatant, biased, and obviously vindictive actions by USAC, I'm going to be requesting a Congressional inquiry to be conducted on USAC. The evident corruption within this privately owned company involving the Federally Funded FCC E-Rate Program, needs to be uncovered. Appropriate measures need to be taken to determine the cause of these continuing bias actions against so many small companies. The involved individuals behind all of this detrimental action against Integrity and many other small businesses who have been indiscriminately shut out of the E-Rate program and in many cases destroyed must be exposed and held accountable.

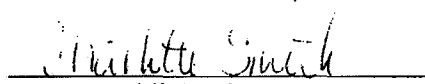
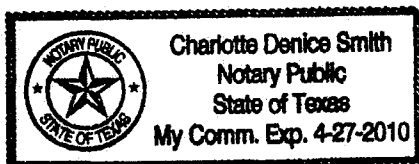
There needs to be a stop put to the rampant double standards of USAC. The continued violation of individual Civil Rights and the denial of the Constitutional rights of all the School Districts, taxpayers, and the children needing and deserving these services, and of the many small businesses who just want to fairly compete in this wonderful Federal Program must stop!

Where's the "FAIRNESS"?



Bill Sugarek

SUBSCRIBED AND SWORN TO before me, on this the 13th day of November 2009.


Notary Public's Signature